IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF NOVEMBER
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.22711 OF 2006

Between:

M/s.Symphony Music, rep. by its
Authorised Signatory E.Ranga Kumar.

..... PETITIONER

AND

The Additional Commissioner (CT) Legal,
A.P., Hyderabad, and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.22711 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

The petitioner is a partnership firm and a registered dealer under APGST Act with the 3rd respondent carrying on business in the sale of pre-recorded audio cassettes and CDs. For the assessment year 2003-2004, the petitioner's liability came to be determined by the 3rd respondent by his proceedings dated 07.01.2006 treating the pre-recorded audio cassettes and CDs as the goods falling under Entry No.10 of Schedule-I of APGST Act. Whereas, it is the case of the petitioner that those goods are required to be treated as electronic goods as per Entry-38 of Schedule-I of APGST Act. Aggrieved by the assessment, the petitioner carried the matter in appeal before the 2nd respondent, unsuccessfully. The 2nd respondent by his order dated 26.07.2006 dismissed the appeal. The petitioner carried the matter in a further appeal before the Sales Tax Appellate Tribunal and the same is said to be pending. During the pendency of the appeal, it appears that the petitioner made an application before the 1st respondent seeking stay of recovery of the disputed tax during the pendency of the appeal. The said application was rejected by the 1st respondent by his order

dated 25.09.2006. Hence, the present writ petition, with a prayer as follows:

> **" … Hon'ble Court may be pleased to issue an appropriate Writ or direction more particularly one in the nature of Writ of Mandamus by setting aside the impugned order dated 25.09.2006 issued by the 1st respondent as it is contrary to the provisions of law and unjustified in the facts and circumstances of the case."**

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself, by directing the respondents not to take any coercive steps for recovery of the disputed tax due for the abovementioned assessment year from the petitioner, on condition the petitioner deposits 50% of the disputed tax within a period of six weeks from today. Any amount of tax, other than the admitted tax, already paid by the petitioner with reference to the assessment year in question, shall be given credit while computing the above-mentioned amount of 50%.

With the above direction, the writ petition is disposed of.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

6th NOVEMBER, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.22711 OF 2006
(Per Sri Justice J.Chelameswar)

6TH NOVEMBER, 2006